

**Plan to Enhance the Role of the States
and Tribes in the Superfund Program:
Executive Summary**

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I. Introduction

This document presents EPA's recommendations for enhancing the roles of states and federally-recognized Indian tribes in implementing the Superfund program. The agency collaborated with states and tribes in working sessions, during which the parties developed "consensus-based" recommendations for final approval by upper-level EPA, state, and tribal managers. EPA acknowledges that state and tribal support for recommendations in this report is based on the Superfund statute. This effort is separate from that of Superfund reauthorization, and state or tribal participation in the development of this report does not represent an endorsement of any particular reauthorization position.¹

Through this document, EPA proposes an integrated process for implementing the recommendations to enhance state and tribal roles, and suggests ways the process could begin under a national pilot program. This document is for state, tribal, and EPA regional audiences, and it identifies steps that EPA could take to build stronger partnerships with states and tribes. As this plan and its recommendations will apply to all sites within the Superfund program, including federal facilities, it will interest other parties.

II. Background

Over the past 15 years, many states have developed Superfund program capabilities and now implement their own hazardous waste cleanup programs. Many tribes have also begun developing capabilities in this area. EPA has encouraged and supported this development with both technical and financial resources, and plans to continue this trend toward an enhanced role for states and tribes in hazardous waste cleanups. The Administrator places a high priority on state and tribal empowerment, as demonstrated by the National Environmental Performance Partnership System (NEPPS), which calls for "States to serve as the primary front-line delivery agent." Superfund's administrative reforms further illustrate the agency's commitment to improve state and tribal involvement in the Superfund program.

In November 1996, EPA's Assistant Administrators for the Office of Solid Waste and Emergency Response (OSWER) and the Office of Enforcement and Compliance Assurance (OECA) issued a policy message commissioning work to identify and analyze major issues associated with enhancing the role of states and tribes in Superfund. They stressed the importance for EPA, with states and tribes, to work through the issues of state and tribal readiness, assistance to states and tribes, EPA-state or EPA-tribal partnership agreements, and unique considerations for enhancing tribal participation. The statement asked

¹ State participants in the State and Tribal Superfund Management Council (SMC) and workgroups support the premise that the state role in Superfund should be enhanced. State participants view this report's recommendations as facilitating an appropriate division of labor for assisting states and regions in developing workable models for an increased state role in the Superfund program, under current law. While these recommendations may be applicable to a reauthorized Superfund statute, states wish to reserve judgment until reauthorization is a fact. Comments and recommendations in this report, therefore, should not be viewed as contradictory to state opinions expressed on reauthorization.

for recommendations on ways EPA can work to further build “strong partnerships” between the federal government and states and tribes.²

III. State and Tribal Enhanced Role Initiative: Concept and Assumptions

The purpose of the State and Tribal Enhanced Role Initiative is to develop a comprehensive plan that EPA can implement to equitably share Superfund program responsibilities with interested and capable states and tribes, to enable quicker cleanup of more sites. EPA is evaluating the Superfund program to integrate new ideas into the comprehensive plan and build upon state and tribal partnerships. EPA intends for this plan to promote flexibility in the management of contaminated sites consistent with the overall goal of protecting human health and the environment.

This report recognizes that the role of states and tribes in the Superfund program has grown measurably during the past decade, and advocates a comprehensive national approach to defining program management roles. The recommendations manifest an evolving federal role that will continue to be delineated as EPA moves to enhance program cooperation with states and tribes, while maintaining a continued role in program implementation, enforcement, and response activities.

This report consists of four chapters containing the assumptions, objectives, and recommendations from participants in EPA’s State and Tribal Enhanced Role Initiative. These chapters form the framework for a process that EPA will utilize to increase the state and tribal roles as co-implementors of the Superfund program. The chapters address the key steps and provide general themes for how the process is envisioned to work. For example, the decision-making process for states and tribes to take on responsibilities under the Superfund program should include an “enforcement first” approach and public involvement. In addition, a shared role should be negotiated between the EPA region and the state and tribe, including provisions for dispute resolution. It was agreed that disputes should be resolved whenever possible between the states or tribes and region through escalation to senior officials. The dispute resolution process cited in the Code of Federal Regulations will be used when agreement cannot be reached through the informal process. EPA will fully develop a formal implementation plan as part of a pilot initiative this fiscal year.

² Policy Message, November, 1996.

The basic framework for implementing the State and Tribal Enhanced Role Initiative is illustrated in the box below.

Framework for the State and Tribal Enhanced Role Initiative

- ◆ **Communication:** EPA should hold general discussions with state and tribal Superfund program managers to explore their interest in an enhanced role in the Superfund program.
- ◆ **Readiness:** When a state or a tribe expresses interest in an enhanced role in the Superfund program, EPA and the state or tribe should meet to discuss the full range of program activities that it would like to implement. The EPA region works with the state or tribe to identify the program criteria by which to evaluate the state or tribal program, and works with that state or tribe to gauge the level of readiness to assume program responsibilities. (See *Chapter 1: Readiness Recommendations*.)
- ◆ **Assistance:** The state or tribe and region should identify and discuss the technical and financial assistance needed for the state or tribe to perform the negotiated activities. Assistance needs are identified for activities the state or tribe can begin conducting in the near term (i.e., when the state or tribe meets the readiness criteria), as well as activities that the state or tribe hopes to implement in the long term (i.e., developing capacity to meet the readiness criteria in specific program areas). (See *Chapter 2: Assistance Recommendations*.)
- ◆ **Agreements:** The region and state or tribe should negotiate and sign a program agreement to formally establish and document their roles and responsibilities in an enhanced partnership to implement Superfund. (See *Chapter 3: Agreements Recommendations*.)
- ◆ **Tribal Programs:** EPA has learned that there are different concerns and priorities when working with Indian tribes rather than states. Ways to address these differences will be incorporated into the implementation process to ensure that tribes, as well as states, are fully involved in developing and implementing Superfund programs. (See *Chapter 4: Tribal Recommendations*.)

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To provide additional context to the State and Tribal Enhanced Role Initiative, participants in this effort agreed to the principles highlighted below.

Principles To Promote Equal Participation

- ◆ Both states and tribes [i.e., tribes meeting requirements of the National Oil and Hazardous Substances Contingency Plan (NCP) 40 CFR §300.515(b)] are eligible to participate in the enhanced role initiative.
- ◆ No assumptions are made on the exact form or nature of the future Superfund program.
- ◆ EPA regions will promote/assist states and tribes to ensure equal and open participation by all states and tribes that desire enhanced participation in the Superfund program.
- ◆ It is assumed that federal funding will be available to implement the initiative.

Principles To Promote Equal Protection

- ◆ States and tribes may be more stringent than, but must at least meet, the minimum performance standard for each element of the federal cleanup program that they are implementing (e.g., state or tribal program actions must be as protective as those conducted under the Federal program).
- ◆ Cleanups conducted or overseen by a state or tribe using federal funds must be carried out in accordance with the applicable federal laws and regulations.
- ◆ The federal program will retain its legal authorities and independence of action, but will not generally exercise them on state-lead or tribal-lead sites (and not without full prior consultation), unless a state or tribe has failed to meet its responsibilities, and there is an unaddressed threat to human health and/or the environment.
- ◆ States, tribes, and regions are responsible for maintaining the spirit of EPA's "enforcement first" policy in implementing Superfund program activities.

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Principles To Promote Program Consistency and Flexibility

The balance between flexibility and consistency was an issue much discussed by EPA, state, and tribal representatives. The issue is complex and not easily captured in a simple statement. Some key points of the discussion are:

- ◆ The framework of the national Superfund program is laid out not only in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the National Contingency Plan (NCP), but also in EPA policy and guidance;
- ◆ EPA, states, and tribes want flexibility to respond to diverse situations, site complexities, and community concerns;
- ◆ EPA, states, and tribes see consistency as important to assuring a level playing field among states, tribes, potentially responsible parties (PRPs), and communities; and
- ◆ Achieving the program goals is important, especially in the following areas: level of protectiveness; enforcement equity; diligence of enforcement (especially before going to fund-lead cleanups and cost recovery); public involvement; and cost-effectiveness of remedies.

IV. Establishing an Integrated Framework

The State and Tribal Enhanced Role Initiative was structured to ensure that resulting deliberations and recommendations are comprehensive and fully integrated into a balanced strategy that capitalizes on state, tribal and EPA perspectives.

The State, Tribal and Site Identification Center in EPA's Office of Emergency and Remedial Response (OERR) led this initiative by organizing the work into four key implementation steps that define a process to increase state and tribal roles in Superfund. EPA formed four workgroups to assess the issues associated with each step: the *Readiness Workgroup* to develop clearly stated performance standards and a flexible process to assess state and tribal readiness and identify means to enhance readiness; the *Assistance Workgroup* to identify technical, financial, administrative and legal assistance needs of states and tribes, and ways to provide for that assistance; the *Agreements Workgroup* to develop a model for agreements between EPA Regions and states or tribes with flexibility to meet the variety of agreement needs; and the *Tribal Workgroup* to identify the special needs of tribes in building capacity for program implementation, assistance and addressing cultural values. The workgroups included members of several offices at EPA Headquarters, seven EPA regional offices, twelve states and five tribes and tribal consortia.

In addition to the four workgroup topic areas, EPA formed a sub-workgroup to research and address enforcement-related issues that cut across workgroup domains (see related discussion in the Readiness and the Assistance Highlights sections and the Cross-Cutting Issues section of this summary).

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The Enforcement Sub-workgroup began meeting in the fall of 1997, and was composed of representatives from states, EPA Headquarters and regions, and the Department of Justice.

At the outset, EPA also formed a team, largely composed of EPA Headquarters program staff, to coordinate among the four workgroups, and between the workgroups and senior managers (see State and Tribal Superfund Management Council below). The Leadership Integration Team, or LIT, manages process-oriented activities, including project planning and scheduling, communicating the issues and products among workgroups and senior management, and addressing and resolving overlapping or cross-cutting issues. The LIT is composed of the team leaders of the four workgroups, and representatives from the OERR (the Superfund Program Office), OECA, OSWER and EPA Regional staff, as well as a representative from the Association of State and Territorial Solid Waste Management Officials (ASTSWMO).

In coordinating the products of this initiative, the LIT interacts regularly with the State and Tribal Superfund Management Council (SMC). The main reason for creating the SMC was to provide early and ongoing senior manager input to this initiative from EPA Headquarters, EPA regions, states and tribes. Through periodic conference calls and meetings, the SMC has been able to review and comment on workgroup/LIT deliberations throughout the entire process.

V. Shaping the Initiative: SMC Leadership

The SMC provided key leadership to the State and Tribal Enhanced Role Initiative. Its membership provided a balance of EPA, state, and tribal perspectives, and included senior managers with detailed knowledge of response, enforcement, legal and administrative/managerial aspects of Superfund. Workgroup leaders were able to benefit from the perspective of senior managers as they guided the activities of their workgroups.

The SMC met four times and held many conference calls concurrent with the workgroup process. At the initial meeting in November 1996, the SMC identified its primary interests and initial guidance for the initiative. Members briefly discussed the planning context (current v. future law), the initiative's scope, how to gauge a state's or tribe's readiness, and the importance of providing flexibility to meet the broad range of state and tribal interests and capabilities. The SMC asked the LIT to summarize its recommendations on these issues for their consideration at a subsequent SMC meeting.

During a full-day SMC meeting in January 1997, the SMC considered the LIT's recommendations and provided clear, substantive input on these and other central issues. Following this meeting, the SMC reached consensus on the issues noted on the following page.

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Consensus Issues

- ◆ **Planning Context:** The generation of ideas under this initiative should not be constrained by current law, nor should any specific statutory changes be anticipated. Rather, workgroups should work with open minds toward the best practical solutions.
- ◆ **Flexibility:** Recommendations should provide sufficient flexibility to work for the broad range of interests and capabilities of state and tribal Superfund programs.
- ◆ **Standard Elements:** It is useful to communicate a set of base program elements that are important to success in Superfund, but these elements should have the flexibility noted above.
- ◆ **Federal Involvement:** Members agreed that federal involvement would be greater for the highest-risk sites, and that involvement should decrease as states and tribes demonstrate capability.
- ◆ **Retained EPA Role:** The SMC recognized the importance of EPA response and enforcement action to the success of state and tribal programs. In particular, the SMC opposed limits to the number of sites that could be listed on the National Priorities List (NPL); noted the importance of a threat of EPA enforcement to the states' or tribes' success in securing PRP response work; and acknowledged that EPA should retain its enforcement discretion in the case of Fund-financed response actions.

Other issues were discussed for which a range of opinions were held within the group. Among the non-consensus items are those in the following box.

Non-Consensus Issues

- ◆ **Federal Interest Sites:** Some EPA workgroup members believed the universe of sites that should be covered by EPA-state and EPA-tribal partnerships encompassed all high-risk sites, generally consistent with a Hazard Ranking System (HRS) score that would qualify the site for the NPL. Some State members viewed federal interest sites as a more narrow universe, generally restricted to NPL sites and sites where EPA performs a removal action.
- ◆ **Federal Enforcement:** Some EPA workgroup members believed that EPA should retain an ability to take enforcement action at state-lead sites in appropriate circumstances. State members believed state-lead sites should not be subject to federal enforcement, except in extremely limited cases of seriously unaddressed risks.

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The SMC discussions early in the workgroup process provided essential executive input to this initiative for both the consensus and non-consensus areas. Two SMC members summarized the SMC guidance and opinions for all workgroup members during the first consolidated workgroup meeting in February 1997.

The Council's third meeting was held in early May of 1997. SMC members provided input on preliminary recommendations presented by the four workgroup leaders. In addition, the SMC was briefed on critical considerations for enhancing the tribal role in Superfund by one of its tribal members from the St. Regis Mohawk Tribe, and discussed the connections between enforcement activities and funding decisions. A final SMC meeting in November of 1997 allowed for their review of final workgroup recommendations and provided a forum to resolve issues of concern to Council members.

VI. Recommendation Highlights

Relation of Recommendations to Superfund Reauthorization: This initiative began at a time when EPA was also exploring approaches for a reauthorized Superfund program. The SMC and EPA management directed that the State and Tribal Enhanced Role Initiative should be an effort separate from reauthorization, allowing the workgroups to explore any type of change they felt necessary or appropriate to enhance state and tribal roles. While the workgroup recommendations represent significant changes in how the program could be implemented, most recommendations are well within EPA's current authority for implementing Superfund.³

Though it is a separate effort, the work conducted within the State and Tribal Enhanced Role Initiative may serve as an opportunity to inform EPA and others on particular reauthorization issues. On the other hand, Superfund reauthorization will require EPA to reevaluate recommendations in this report in light of enacted statutory change.

Resource Implications: Some recommendations in this report will require significant investments (such as technical and financial assistance to states and tribes). Workgroups did not attempt to solve resource problems implicit in their recommendations. Participants believe that some recommendations can be implemented with existing resources; some will depend upon new national resource investment/disinvestment decisions, and some may be implemented by EPA regions with resource shifts at that level. EPA will consult with states and tribes at both national and regional levels about these resource decisions.

Flexibility Can Enhance Efficiency: All workgroups called for a flexible approach to address individual state and tribal needs as part of their recommendations. Consistent with SMC's instruction, workgroup members believe that program flexibility supports the goal of cleaning up sites to achieve the level of protection currently required under the federal Superfund program. By working with states and tribes to identify and clarify their respective roles within the program, EPA can provide the support to

³ Pilots will be implemented according to applicable federal laws and regulations. EPA does not intend for regions to implement recommendations which cannot be carried out under existing statutory authorities during this pilot phase.

ensure successful program implementation. Participants in this effort believe that with a new approach to the partnership, resources may be more efficiently directed towards greater program effectiveness. For example, current working relationships among EPA, states and tribes can include a significant overlap in roles, with no single entity having sufficient resources to address all contaminated sites. EPA believes that developing a comprehensive implementation framework is a significant step in the direction of a more efficient program.⁴

Readiness Highlights

The Readiness Workgroup recognizes that all states and tribes have different ranges of expertise, experience, and ability to implement activities at sites under Superfund and that EPA regions have different working relationships with different states and tribes. In order to provide states and tribes a baseline against which to measure their program capability, the Workgroup developed performance-based criteria that define implementation “readiness.” These criteria establish (1) the best way to identify readiness of a state or tribe to assume responsibilities for implementing the Superfund program, and (2) resources and capabilities that a state or tribe should have in place to demonstrate “readiness.” The workgroup framed consistent “results-oriented” standards around which states and tribes can develop their programs and assess their level of readiness.

These minimum standards are written in generic form so that they can be applied under the current program, or in any future scenario. To ensure that the full scope of the Superfund program is characterized, the Readiness Workgroup developed the criteria within four broad areas. These areas were identified as the major elements of a cleanup program: site identification, screening, and prioritization; expedited actions; long-term actions; and post-cleanup site monitoring and evaluation. The Workgroup also linked certain activities among the readiness criteria of activities that would work best together. The Workgroup recommends that programs follow the “criteria grouping” guidelines to ensure overall effective program implementation.

Consistent with the guiding principles for this initiative, the Readiness Workgroup agreed that states and tribes should adhere to the spirit of the enforcement fairness reforms and policies, even without consensus on the issue of whether the states should have to implement the reforms in the same manner as EPA. The Workgroup’s recommendations are more fully discussed in *Chapter 1: Readiness Recommendations* of this report.

Assistance Highlights

The Assistance Workgroup proposes to use multiple tools to address a two-part program of technical assistance and financial funding/assistance.

The principal technical assistance recommendations are that EPA: formally assess, on an ongoing annual basis, the technical needs of state and tribal Superfund programs; meet those needs to the

⁴ It is envisioned that there generally will be a single “lead regulator” for each site that would be determined by the region and state or tribe.

best of its ability through training and access to federal personnel, contracts, or equipment; and provide a periodic report to Congress on the technical needs of state and tribal programs and federal resources required to meet those needs. Some resources to implement training and technical assistance are currently available. Future resources needed to provide for technical assistance and training may require investment/divestment. Superfund research and development activities should continue to be conducted by EPA, with transfer of those technologies to the states and tribes.

One of the report's principal recommendations is to give states and tribes greater flexibility in implementing the various Superfund program components. To that end, greater or lesser involvement in implementation may be accomplished by varying the type and scope of assistance agreement offered, depending on the extent of state or tribal readiness, the combination of program elements requested by the state or tribe, and the need for EPA involvement in implementation. Possible changes to provisions of the Superfund Administration Regulation, "Cooperative Agreements and Superfund State Contracts for Superfund Response Actions," 40 CFR Part 35 Subpart O, are being examined for assistance agreements issues. A related recommendation is to streamline and consolidate the budget and reporting requirements prescribed by Subpart O. Options for advancing these recommendations can be found in the body of this report.

The Enforcement Sub-workgroup recommends using a variation of the current National Prioritization Panel in awarding cooperative agreements for Fund-financed construction. This approach can ensure the "enforcement first" policy is maintained in implementing response actions. Currently, the panel prioritizes the following activities: remedial action starts; non-time critical removal actions at NPL sites; removal actions with costs above a region's base budget; and enforcement fairness initiative projects. As the states and tribes take on larger roles in the Superfund program, newly created EPA regional panels could provide states and tribes with direct involvement in the priority-setting process. The National Prioritization Panel will continue to make final (cross-Regional) priority decisions. The Workgroup's recommendations are more fully discussed in *Chapter 2: Assistance Recommendations* of this report.

Agreements Highlights

The principal recommendation from the Agreements Workgroup is for states, tribes and EPA to follow a proposed model agreement that documents the relationship between EPA and a state or tribe. This model agreement would define the type of relationship EPA and the state or tribe plan to develop, based on the most efficient way to clean up sites in the state or Indian country, and the capabilities and interests of the state or tribe. In particular, the Workgroup thought it essential to clearly define the roles and responsibilities of the various parties and the types of sites to be included. The Workgroup envisioned the agreement to be broad; if site-specific details were needed, they would be provided in sub-agreements. The Workgroup did not recommend a particular duration for the agreement, because it will vary depending on how much responsibility is initially provided to individual states and tribes in any agreement. However, the agreement does provide that if a significant statutory program or funding change affects the state's, tribe's, or EPA's ability to carry out the agreement, then it should be brought to the attention of all parties to decide the implications/consequences to the agreement.

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The primary benefit from this recommendation is that the agreement would formally assign responsibilities to either EPA or the state or tribe, thereby reducing duplication of effort among participants, with a single agency having primary responsibility for the particular activity or group of activities. *Chapter 3: Agreement Recommendations* contains the model agreement and further discussion of the recommendation.

Tribal Highlights

Although each workgroup operated under the assumption that its recommendations would apply to states and tribes equally, EPA and the SMC recognized that there are unique considerations to address in the recommendations with respect to Tribes. To ensure that tribal concerns are appropriately represented within the implementation plan, the Tribal Workgroup conducted the special task of evaluating each workgroup's recommendations as to their applicability to tribes. Tribal Workgroup recommendations are directed at issue areas assigned to other workgroups, with a specific focus on tribal needs. The Workgroup developed a total of 29 detailed recommendations, organized into four broad priorities that EPA could implement to increase the tribal role in Superfund:

- ◆ Increase funding for tribal Superfund programs and allocate it separately from state funding;
- ◆ Develop tribal-specific Superfund training and increase training efforts;
- ◆ Explore ways to better incorporate tribal cultural values into the Superfund program; and
- ◆ Advocate inter-agency coordination among agencies with environmental Federal Trust responsibilities.

These priority recommendations indicate that tribes are in the early stages of developing capacity, if they are involved at all, in the Superfund program. As tribes develop their environmental programs, they need mechanisms to address unique tribal needs and priorities that are different from those EPA has experienced in working with states. *Chapter 4: Tribal Recommendations* contains all Tribal Workgroup recommendations and accompanying discussion summaries. It acknowledges that increased tribal funding should not come at the expense of state funding, and proposes means to address any issues of site jurisdiction that may arise between states and tribes.

VII. Cross-Cutting Issues Associated With This Initiative

EPA identified several important issues that span more than one workgroup and affect implementation of the enhanced role initiative. In particular, issues regarding enforcement/funding arose within a broad context, and were investigated by the Enforcement Sub-workgroup identified previously. These issues extended well beyond the State and Tribal Enhanced Role Initiative, but are integral to implementation of workgroup recommendations. These issues are important, because in the absence of a major Congressional funding increase, it is essential that the current balance of enforcement-lead cleanups (approximately 75%) continue.

The most significant enforcement issues relate to increasing state management of federal funds and enforcement policy initiatives. A major question was how EPA's "enforcement first" policy should

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continue under state program direction.⁵ Participants agreed that states and regions should adhere to the spirit of the fairness reforms and policies (e.g., *de micromis* settlements, municipal liability), because of the great importance placed upon them by the federal government and Superfund program stakeholders. Participants also agree, however, that states and tribes should have flexibility in implementing the reforms.

The SMC discussed the issue of jurisdiction over sites that impact tribes. Two types of sites were considered: (1) sites located partly or wholly within the boundaries of a federally-recognized Indian tribe/Native Village; and (2) sites located immediately adjacent to Indian lands or those with a clear and significant impact on tribal lands or resources (e.g., fisheries).⁶ The SMC agreed that states should not be able to take lead responsibility for the first group of sites (within the boundary of Indian lands). If tribes have the interest and readiness to take the lead for site response, they may do so. If the tribe does not have this interest/readiness, EPA would maintain lead responsibility to ensure that the federal government is living up to its responsibilities. State members urged EPA to ensure that states are provided an opportunity to be involved in sites on tribal lands that impact non-tribal lands/resources.

For the second group of sites (those adjacent to or impacting Indian lands or resources), the SMC agreed that it would be important to consider whether the tribe's interests could be addressed if the state has the lead for site response. If the result of advance discussions among EPA, the state, and the tribe were that tribal interests could be fairly incorporated under a state lead, then the state could assume lead for these sites. If there remained significant concern that tribal interests may not be fairly addressed, then EPA would maintain the lead responsibility for these sites.

VIII. Key Next Steps for EPA

Recommendations outlined in this plan are steps that EPA will implement to comprehensively enhance the role of states and tribes in Superfund's implementation. The agency is investigating opportunities to pilot-test the overall process. (EPA believes that the readiness, assistance, and agreements recommendations should be implemented as an integrated process.) The components of this initiative (i.e., the workgroup products) are inter-dependent and constitute a unified approach to meet the goal of enhancing the state and tribal implementation role in Superfund.

Starting in FY98, EPA will begin work to develop a comprehensive implementation plan for the enhanced role process and will conduct a national pilot of this process. Each region is to "field-test" the integrated process with one state and one tribe (except Region III, which has no federally-recognized

⁵ Many states have voluntary cleanup programs through which private parties conduct site cleanups that preserve constrained public resources. These programs can contribute to Superfund's enforcement-first and polluter-pay principles.

⁶ EPA should seriously investigate ways to look at ways to encourage states and tribes to better cooperate among themselves on Superfund and other important environmental issues. As tribal environmental program capacity increases, opportunities for cooperation among tribes and states will proliferate.

Indian tribes). The selection of the state and tribe (or, more than one, if a given region is willing and has several states and tribes interested in pursuing an enhanced role) is at the region's discretion. Piloting the process on a small scale in each region will give EPA program-wide experience with an enhanced state and tribal role which can be incorporated into the final implementation plan.

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